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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,446	12/05/2001	Roy F. Brabson	RSW920010221US1	3354
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IBM CORPORATION 3039 CORNWALLIS RD. DEPT. T81 / B503, PO BOX 12195 REASEARCH TRIANGLE PARK, NC 27709				
			EXAMINER DERWICH, KRISTIN M	
			ART UNIT 2132	PAPER NUMBER

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/007,446

Applicant(s)

BRABSON ET AL.

Examiner

Kristin Derwich

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-18 are pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 17 and 18 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 24 and 26 of copending Application No. 10/007593. Although the conflicting claims are not identical, they are not patentably distinct from each other because "under conditions specified by the security policy information" is not an active step to further limit the claim.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Hereafter patent literature that is referenced as prior art will be cited by column and line number in the form of (column number:line number range). For example, the citation (6:23-27) refers to lines 23-27 of the 6th column in the reference.

3. Claims 1-5, 7, 8, 10, 11, 14, 17 and 18 rejected under 35 U.S.C. 102(b) as being anticipated by Wiegel, U.S. Patent No. 6,131,163.

As per claims 1, 17 and 18:

Wiegel discloses a method of improving security processing in a computer network comprising the steps of:

providing security processing in an operating system kernel (6:21-24);

providing an application program which makes use of the operating system kernel during execution (6:29-32);

providing security policy information (8:28-31);

executing the application program (6:29-32); and

selectably securing at least one communication of the executing application program using the provided security processing in the operating system kernel, under conditions specified by the security policy information (9:23-42).

As per claims 17 and 18, these are system and computer program versions respectively of the claimed apparatus discussed above in claim 1 wherein all claimed limitations have also been addressed and/or cited as set forth above.

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As per claim 2:

Wiegel discloses a method wherein the security policy information is stored in a security repository (9:23-27).

As per claim 3:

Wiegel disclose a method wherein the security policy information is usable for more than one executing application program (9:30-35).

As per claim 4:

Wiegel discloses a method wherein the conditions include network addresses (9:41-55).

As per claim 5:

Wiegel discloses a method wherein the network addresses specify one or more of server addresses and destination addresses (9:41-55).

As per claim 6:

Wiegel discloses a security policy tree that includes the condition of a source or destination address. It would have been an obvious modification to include a range of destination addresses (9:41-55).

As per claim 7:

Wiegel discloses a method wherein the conditions include one or more port numbers and/or one or more port number ranges (9:26-30).

As per claim 8:

Wiegel discloses a method wherein the conditions include one or more job names (9:41-55, wherein network service acts as job names).

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As per claim 10:

Wiegel discloses a method further comprising the step of checking the security policy information when the executing application program establishes a connection, and wherein the selectably securing step communicates on that connection according to a result of the checking step (10:15-49).

As per claim 11:

Wiegel discloses a method whereby communications from the executing application program may be secured even though the provided application program has no code for security processing (10:15-49).

As per claim 14:

Wiegel discloses a method wherein the provided security processing operates in a Transmission Control Protocol layer of the operating system kernel (3:38-46).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegel as applied to claim 1 above and further in view of Winiger, U.S. Patent No. 5,845,068.

As per claim 9:

Wiegel fails to teach identifiers used as conditions for the security policy.

However, Winiger discloses utilizing an identifier code (3:31-40).

As per claim 13:

Wiegel fails to teach only some sockets of a port being secured. However, Winiger discloses only the socket of a port being utilized as being secure (9:25-52).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to apply the invention of Winiger to the invention of Wiegel because Winiger attempts to secure access to dominant ports to protect attribute information from attack (3:24-29).

5. Claim 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegel as applied to claim 1 above further in view of Mod_SSL.

As per claim 12:

Wiegel fails to disclose a method wherein the provided application program includes invocation of one or more security directives, and further comprising the step of executing, during execution of the provided application program, one or more of the invoked security directives. However, the Mod_SSL manual discloses a variety of security directives (lines 8-16, pg. 1 of chap. 3).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to utilize security directives in order to have a better understanding of how a mod_ssl functionality is activated (lines 3-4, pg. 1 of chap. 3).

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6. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegel as applied to claim 1 above further in view of Berg, PG Pub 2002/0116605.

As per claim 15:

Wiegel fails to teach a method wherein the provided security processing implements Secure Sockets Layer. However, Berg discloses a method wherein SSL is utilized (lines 1-4 in [0206]).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to utilize SSL because this would increase protection and prevent unauthorized users as stated in Wiegel (1:51-55).

7. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegel as applied to claim 1 above further in view of Dierk et al. (Dierk), RFC 2246.

As per claim 16:

Wiegel fails to teach a method wherein the provided security processing implements Transaction Layer Security. However, TLS was well known in the art at the time the invention was made as exemplified by Dierks. It would have been an obvious modification, if using the invention for SSL, to upgrade and utilize TLS (pg. 5, item 3: Goals of this document).

Conclusion

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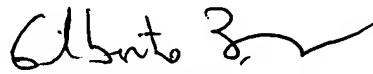
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristin Derwich whose telephone number is 571-272-7958. The examiner can normally be reached on Monday - Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KMD

Kristin Derwich
Examiner
Art Unit 2132


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